

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re: ) Chapter 11  
 )  
CIRCUIT CITY STORES, INC., et al., )  
 ) Case No. 08-35653  
 ) Jointly Administered  
Debtors. )  
 )  
\_\_\_\_\_  
 )

**COLORADO STRUCTURE INC.'S OPPOSITION TO  
LIQUIDATING TRUSTEE'S EIGHTH OMNIBUS OBJECTION TO CLAIMS**

Comes now Colorado Structures, Inc., d/b/a CSI Construction Company (“CSI”), by the undersigned counsel, for its opposition to the *Liquidating Trust's Eighth Omnibus Objection to Claims (Reduction of Certain Partially Invalid Claims, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Amended Claims)* (the “Objection”), and in support thereof alleges as follows:

1. On November 10, 2008, (the “Petition Date”) Circuit City Stores, Inc. (the “Debtor”), and certain affiliated entities, filed voluntary petitions pursuant to Chapter 11 of Title 11 of the United States Code (the “Petition Date”).
2. On or about January 29, 2009, CSI timely filed its secured claim in the amount of \$82,409.48 (the “Claim”). On information and belief, the Debtor’s claims agent identified the Claim as Claim No. 7810. A copy of the Claim is attached hereto as **Exhibit A** and is incorporated herein by reference.

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William A. Gray (VSB No. 46911)  
William Ashley Burgess (VSB No. 67998)  
Sands Anderson PC  
1111 E. Main Street, Suite 2400  
P.O. Box 1998 (23218)  
Richmond, Virginia 23219  
804-648-1636 (office)  
804-783-7291 (fax)  
bgray@sandsanderson.com  
aburgess@sandsanderson.com  
*Counsel for Colorado Structures, Inc.*

3. In general, and as alleged in the Claim, CSI and Circuit City entered into a contract on or about February 22, 2008, for the construction of tenant improvements in a Circuit City store located in Monrovia, California (the “Contract”). A copy of the Contract and related documents are attached to the Claim, thus the Claim constitutes *prima facie* evidence of the validity and amount of the Claim. *See Fed. R. Bankr. P. 3001(E).*

4. On February 25, 2011, the Objection was filed. The Objection asserts that the Claim “should be disallowed because the Claim is not owed by Debtors.” *See Objection, Exhibit C.* Debtor’s statement in the Objection – alone – does not overcome the presumptive validity of the Claim.

5. The Objection should be overruled for several additional reasons. First, all tenant improvements were for the benefit of Circuit City. Second, as shown in the attachments to the Claim, Circuit City invited bids for the tenant improvements, to which CSI responded. Finally, the Contract — *i.e.*, the Agreement Between Owner and Contractor – Stipulated Sum (attached to the Claim) — is between Circuit City and CSI. Finally, the Claim is secured by a mechanic’s lien.

6. The undersigned counsel for CSI is who should be contacted to discuss or resolve this Claim. Other individuals with knowledge of this Claim include Ms. Connie Lievrouw, Chief Financial Officer, Colorado Structures, Inc., 540 Elkton Drive, Suite 202, Colorado Springs, CO 80907. The claim is supported by the documents identified herein, additional documents as may be produced in discovery, and testimony of witnesses.

7. On November 10, 2010, Alfred E. Siegel, Trustee of the Circuit City Liquidating Trust, filed an Adversary Proceeding against CSI, Case No. 10-03748, for recovery of alleged preference payments, and disallowance of a second proof of claim filed by CSI (the “Preference Litigation”). The proof of claim at issue in the Preference Litigation is Claim No. 12341. CSI

has filed an Answer to the Preference Litigation, and this matter is now proceeding to mediation as required by the *Amended Order Establishing Procedures for Avoidance Action Adversary Proceedings*.

8. The Claim at issue in this Objection (Claim No. 7810) is not presently included in the Preference Litigation. However, CSI believes all matters pertaining to it should be consolidated into one matter, versus the parties proceeding with both the Preference Litigation, and a contested matter regarding an objection to claim. As such, CSI proposes that this Objection, and CSI's Opposition to same, be consolidated with the Preference Litigation.

WHERERFORE, CSI requests that (i) the Objection be denied, (ii) the Claim be allowed in the amount filed, and (iii) for such other and further relief as the Court deems just and proper.

Submitted: April 7, 2011

**COLORADO STRUCTURS, INC.  
d/b/a CSI CONSTRUCTION COMPANY**

/s/ William A. Gray  
William A. Gray (VSB No. 46911)  
William Ashley Burgess (VSB No. 67998)  
Sands Anderson PC  
1111 E. Main Street, Suite 2400  
P.O. Box 1998 (23218)  
Richmond, Virginia 23219  
804-648-1636 (office)  
804-783-7291 (fax)  
bgray@sandsanderson.com  
aburgess@sandsanderson.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of April, 2010, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Bankruptcy Court for the Eastern District of Virginia, Richmond Division, using the CM/ECF system, which thereby caused the above to be served electronically on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed by U.S. Mail, first class, postage prepaid, to all persons on the below Service List:

**SERVICE LIST**

Lynn L. Tavenner, Esquire  
Paula S. Beran Esquire  
Tavenner & Beran, PLC  
20 North Eighth Street, 2nd Floor  
Richmond, VA 23219

Jeffrey N. Pomerantz, Esquire  
Andrew W. Caine, Esquire  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Boulevard  
Los Angeles CA 90067-4100

/s/ William A. Gray